

# **9 FAM PART IV Appendix O, 400 INELIGIBILITIES WHICH APPLY TO REFUGEES**

*(TL:VISA-280; 05-15-2001)*

## **9 FAM, 401 SECOND SENTENCE INELIGIBILITY**

*(TL:VISA-142; 4-22-96)*

Refugees must not have persecuted others. The second sentence of INA 101(a)(42) states:

The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

## **9 FAM 402 FIRM RESETTLEMENT**

*(TL:VISA-142; 4-22-96)*

a. Refugees must not have been firmly resettled in a third country (INA 207(c)(1)). Firm resettlement is defined in the applicable INS regulations, as shown below.

b. 8 CFR 207.1(b) states:

A refugee is considered to be "firmly resettled" if he/she has been offered resident status, citizenship, or some other type of permanent resettlement by a country other than the United States and has traveled to and entered that country as a consequence of his/her flight from persecution. Any applicant who has become firmly resettled in a foreign country is not eligible for refugee status under this chapter.

c. 8 CFR 207.1(c) states:

"Any applicant who claims not to be firmly resettled in a foreign country must establish that the conditions of his/her residence in that country are so restrictive as to deny resettlement. In determining whether or not an applicant is firmly resettled in a foreign country, the officer reviewing the matter shall consider the conditions under which other residents of the country live:

(1) Whether permanent or temporary housing is available to the refugee in the foreign country;

(2) Nature of employment available to the refugee in the foreign country; and

(3) Other benefits offered or denied to the refugee by the foreign country which are available to other residents, such as (i) right to property ownership, (ii) travel documentation, (iii) education, (iv) public welfare, and (v) citizenship.

## **9 FAM 403 INA 212(a) INELIGIBILITIES**

*(TL:VISA-280; 05-15-2001)*

A refugee applicant must be otherwise eligible for admission to the United States as an immigrant, except that the provisions of INA 212(a)(4), (5), and (7)(A) do not apply to refugees. Waivers may be granted for all other provisions of INA 212(a) other than paragraph (2)(C), or subparagraph (A), (B), (C) or (E) of paragraph 3. Any available waiver may be requested for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. [INA 207(c)(1), (3).] [See 9 FAM PART IV Appendix O, 800 regarding procedures for requesting waivers.]